

**ORDINANCE NO. 11-48**

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 98 ENTITLED "ZONING", ARTICLE V. ZONING DISTRICT REGULATIONS, DIVISION 29. HIALEAH HEIGHTS, OF THE CODE OF ORDINANCES, BY ADDING A NEW SECTION, HIALEAH CODE § 1607.1 ENTITLED "BDH BUSINESS DEVELOPMENT DISTRICT" TO PROVIDE REGULATIONS FOR THE BUSINESS DEVELOPMENT DISTRICT; PROVIDING A PURPOSE, A DESCRIPTION OF THE GEOGRAPHIC AREA, PERMITTED USES, LIMITATIONS AND PROHIBITIONS, DEVELOPMENT STANDARDS AND A SITE DEVELOPMENT PLAN APPROVAL; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting on June 22, 2011 recommended approval of this ordinance; and

**WHEREAS**, the general purpose and intent of this ordinance is to provide proper zoning regulations in the best interest of the health, safety, welfare and aesthetics of the community and the proper administration of its government; and

**WHEREAS**, the specific purpose and intent is to create zoning regulations for a geographic area that coincides with the boundaries of properties comprising of the northwest one-quarter of the Annexation Area that promotes commercial and light industrial uses, including distribution warehouses, that are compatible with the City vision and developmental standards set forth in the BDH district.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** Chapter 98 entitled "Zoning", Article V. Zoning District Regulations, Division 29. Hialeah Heights, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by adding a new section, Hialeah Code § 98-1607.1 entitled "BDH business development district," to read as follows:

## Chapter 98

### ZONING

\* \* \*

#### ARTICLE V. ZONING DISTRICT REGULATIONS

\* \* \*

#### DIVISION 29. HIALEAH HEIGHTS

##### **Sec. 98-1607.1. BDH business development district\***

(a) *Geographic area.* The city hereby designates the geographic area comprised of all land located in an area bounded on the west by NW 107 Avenue, on the north by NW 170 Street, on the east by NW 97 Avenue and on the south by NW 154 Street, as the BDH business development district.

(b) *Site development plan approval.* Prior to development, parcels under common ownership or title within the district shall be master planned. The master plan shall be reviewed and approved as a site plan and a copy of it shall be included in every submittal for each phase of development. The district shall include different thoroughfare types as described in subsection (d) and accommodate the different uses to the thoroughfare classification. It is encouraged that a master plan include a pattern book that provides design guidelines and illustrates the urban design and appearance of the development.

(c) *Development standards.*

(1) Integration of signage, lighting and street furniture. Signs, graphics, lighting and street furniture for building and principal structures shall be conceived as an integral part of the architectural design of the building or principal structures. A pattern book of proposed signs consistent with the BDH sign regulations, including location and dimensions, shall be submitted at each phase of development.

(2) Fences and gates. Chain link, slatted and wood fences and gates are prohibited when facing streets. Exception: temporary perimeter fencing on phased developments, fencing and gates incorporated as a portion of the screening for utility and mechanical structure, lift stations or interior security fencing in internal parking areas.

(3) Loading and service areas. Loading areas, recycling areas, service areas and trash and garbage containers shall be located in the interior of blocks and screened to minimize negative visual impacts. Trash containers and dumpsters shall neither be allowed to front the street or be at close proximity to the street. Trash containers and dumpsters shall not be permitted in front setback areas.

(4) Pedestrian interest and use. On commercial buildings fronting boulevards, entrance roads, commercial connector roads and park drives, building architecture, exterior finish materials and textures, architectural elements and ornamentation shall be selected to enhance pedestrian-friendly design and functionality at street level. Architectural elements at street level shall have dimensions, windows, openings, doors and design variations to create interest for the pedestrian. Blank walls at the street level and above the ground floor of buildings are not permitted.

(5) Surface parking. On commercial buildings fronting boulevards, entrance roads, commercial connector roads and park drives, surface parking lots shall be located in the interior, except when the nature of a particular commercial use renders exterior surface parking more suitable.

(6) Screening of mechanical units and service areas. All mechanical units and installations of any type shall be screened from public view, with cohesive design elements that complement building design. Mechanical equipment installed on roofs shall be screened from view by parapets or other architectural elements. When roof decks with mechanical units are visible from adjacent developments, such roof decks should be screened and painted to match the finish of the roof material.

(7) Underground utilities. All new utilities including, but not limited to, utilities required for electric power, distribution, telephone, communication, street lighting and television service shall be installed underground except when environmental or landfill site conditions prevent or impair such installation. Where feasible, existing overhead utilities shall be replaced with underground utilities. The existing overhead electrical transmission lines that front NW 97 Avenue may remain.

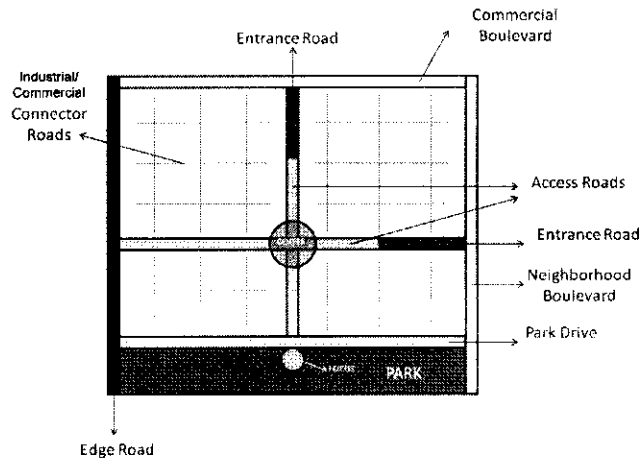
(8) Maintenance covenant. The property owner shall be responsible for the maintenance of the site and shall provide a declaration of restrictive covenants detailing the specific maintenance duties, including, but not limited to the general design and sign criteria. Such declaration shall be in a form and content acceptable to the city and recorded in the county public records.

(d) *Thoroughfares.*

(1) Definition. Thoroughfares are ways for use by vehicular and pedestrian traffic and to provide access to lots and open spaces and consist of vehicular lanes and the area between the curb of the vehicular lanes and the frontage line.

(2) Layout. The proposed master plan shall include a network of thoroughfares including entrance roads, access roads, boulevards, connector roads, edge roads a park drive and a center. All thoroughfares shall terminate at other thoroughfares, forming a network. Dead-end systems of cul-de-sacs, collectors and arterials are discouraged. Exception: thoroughfares that terminate at facilities which, for purposes of their size or the nature of their use (such as major institutions) require limited public access or heightened security.

(3) Thoroughfare classification and compatible frontage regulations. The type of uses permitted within the district correspond and are dependent on the thoroughfare classification that such permitted uses front. A thoroughfare classification map shall illustrate the general location of access roads, boulevards, commercial connector roads, industrial service connector roads, edge roads, entrance roads and park drives as follows:



a. *Access road* means a local right-of-way that connects a boulevard with the interior of the district, having a minimum width of 70 feet. Access roads provide frontage for industrial buildings, slip lanes intended to accommodate non commercial vehicles and pedestrian access to the industrial buildings. Entrance roads are considered to be the longer of either the first 400 feet of an access road or the portion of the frontage of an access road that is dedicated to the office or commercial uses as shown on the master plan for the development. The intersection of two access roads is considered a center.

b. *Boulevard* means a right-of-way of at least four lanes that is geared for non-local traffic and includes a landscaped median. A boulevard should be buffered by wide sidewalks of no less than 8 feet and a green landscaped area of no less than 5 feet directly adjacent to the street. When land elevation or the proximity to limited access rights-of-way makes this impracticable, sidewalks may be located outside the right of way but remain open to public use. A boulevard provides frontage primarily for commercial buildings, regional parks, civic buildings and town centers.

c. *Commercial connector road* means a limited distance, two-lane slow movement right-of-way connecting locations within a commercial area. Commercial connector roads abutting commercial uses provide frontage for offices and compatible commercial buildings in the form of arcades, shop fronts and slip lanes.

d. *Industrial service connector road* means a limited distance, two-lane slow movement right-of-way connecting

locations within an industrial area. Industrial service connector roads abutting industrial and service uses provide frontage for open parking lots, truck courts, unmasked parking decks, drive-throughs and hermetic building fronts, when these are necessary.

e. *Edge road* means a right-of-way that delineates jurisdictions. An edge road provides frontage for open parking lots, unmasked parking decks, drive-throughs and hermetic building fronts, when these are necessary. A boulevard shall not be considered as an edge road.

f. *Entrance road* means the longer of either the first 400 feet of an access road or the portion of the frontage of an access road that is dedicated to office or commercial uses as shown on the master plan for the development. The entrance road provides frontage for offices and compatible commercial buildings in the form of arcades, shop fronts and slip lanes. Trucks with more than two axles are prohibited from parking on entrance roads.

g. *Park drive* means a thoroughfare along the boundary between an urbanized and a natural condition, usually along a public park or waterfront. One side of a drive has the urban character of a street with sidewalks and buildings, while the other has the qualities of a parkway with naturalistic planting and rural detailing. The park drive shall be designed, operated and regulated in such a manner that commercial vehicles (trucks with more than two axles) shall be discouraged and prohibited from circulating on park drives. Edge roads shall not be considered as park drives.

(e) *Permitted uses.* In BDH business development district, the permitted uses for land, buildings and other improvements are subject to the general conditions requiring that all storage of materials and products and all operations of work of every character are carried on entirely within the enclosing walls and under the roof of a building and/or enclosed by a decorative masonry wall when the work is of a nature to be performed outside of a building. The permitted uses of the BDH business development district are as follows:

(1) All uses permitted in M-1 industrial district and section 94-1411(6) permitted in the M-2 industrial district, excluding uses permitted in subsection 98-1111(21) within the C-2 liberal retail commercial district and uses permitted in

subsection 98-1156 (5)(9) within the C-3 extended liberal commercial district except when they are included within an entertainment complex or within hotel and restaurant developments. Automotive uses including uses described in subsection 98-1111(23) through (31) within the C-2 liberal retail commercial district and sales, rental and storage of automobiles, motor trucks and motorcycles are subject to the provisions of the Hialeah Heights Automotive District.

(f) *Minimum frontage.*

(1) Building frontage required. For the purpose of this section all sides of a building that abut a thoroughfare are to be considered fronts. The frontage requirement is related to the thoroughfare that the property fronts as follows: Access roads, boulevards, commercial connectors, entrance roads and park drives shall provide a minimum building frontage of 65%.

(g) *Floor area required.* There shall be a minimum floor area of 1,000 square feet for any occupied building. The floor with the greatest floor area shall be utilized for determining minimum floor area.

(h) *Building height limitations.* Building height shall be measured from the crown of the adjacent road to the cornice line or the top of the parapet. The maximum building height shall be 75 feet. Uses that require a conditional use permit as per section 98-181 of this Code may be granted increased building height when the impact of the proposed use is considered.

(i) *Maximum lot coverage.* There shall be maximum lot coverage of 50% of the net lot area. Parking garages are not counted as lot coverage for the purpose of this provision.

(j) *Minimum setbacks*

(1) *Front setback required.* For the purpose of this section all sides of a building that abut a thoroughfare are to be considered fronts. The front setback requirement is related to the thoroughfare that the property fronts as follows:

a. Access roads serving industrial uses, commercial connectors and park drives. The minimum front setback required is seven feet and the maximum is 52 feet from the property line; or greater than 52 feet to exclusively address physical or environmental conditions. The front setback

shall be improved with a minimum seven-foot landscape buffer and/or a public walkway to widen the sidewalk.

b. Boulevard and entrance roads. For commercial uses, there is a required build-to-line front setback of seven feet or greater to address physical or environmental conditions. The front setback area may be improved with a seven-foot landscape buffer or a public walkway to widen the sidewalk.

c. Industrial connector and edge roads. The minimum front setback required is seven feet. In the cases where impracticable, a slip lane could be allowed provided that it includes a walkway adjacent to the building, a row of perpendicular parking spaces and driveway and a seven-foot landscape buffer immediately adjacent to the property line. Continuous on-site pedestrian walkways no less than five feet in width shall be provided in order to connect the public sidewalk to the main entrance of the buildings fronting these thoroughfares.

(2) *Rear setback required.* The minimum rear setback required is ten feet.

(3) *Interior setback.* There is a required 0- foot setback or if a setback is utilized, there is minimum setback required of ten feet.

(k) *Elevations.*

(1) The primary public entry to a building shall front a right-of-way and the architecture shall emphasize the front entrance. The building facades that front a right-of-way shall provide direct pedestrian access to the right-of-way. The city encourages facade design that will not produce a large expanse of blank or undifferentiated walls.

(2) Architectural details and materials should be consistent throughout a building, from facade elevations, visible from the street, to the remainder of the building.

(3) Placement of doors and windows shall be balanced and aligned horizontally and vertically.

(4) Freestanding canvas-roofed carports and aluminum-roofed carports attached to a building are prohibited unless they are



part of an approved development pattern book or design guidelines.

(5) The size, height, materials and colors of awnings utilized on a building shall be consistent. Awnings covering upper story windows shall conform to the dimensions of individual windows and be proportional and complementary to the first floor awnings.

(6) The city shall consider and approve, if acceptable, color of buildings during site plan review. The city encourages a diverse palette of compatible colors

(1) *Fences.* Fences shall complement adjacent existing developments. Chain-link, stockades, board-on-board, dura-fence and similar fence styles are prohibited when facing streets. Side yard fences adjacent to thoroughfares shall consist of the same style and height as front fences. Exception: temporary perimeter fencing on phased developments, fencing and gates incorporated as a portion of the screening for utility and mechanical structures, lift stations or interior security fencing in internal parking areas.

(m) *Landscape buffer.* There shall be a landscape buffer of at least seven feet in width on all sides fronting a right-of-way and at least 21 feet in width along the entire property if abutting a water body. Landscape buffers fronting a right-of-way may be replaced with wider walkways incorporated as part of the public sidewalk. Where the landscape buffer surrounds a wall or a city-approved combination of a wall and fence, the required width of the landscape buffer shall be located on the exterior side of the wall, or the wall-and-fence combination.

(n) *Streets, sidewalks and pedestrian walkways.* Streets and sidewalks shall be dedicated to the city except for sidewalks intended to widen the size of a standard sidewalk. Such dedication shall be either in fee simple by way of deed, easement, license or other instrument acceptable to the city. Continuous on-site pedestrian walkways of no less than five feet in width shall connect the public sidewalk to the main entrance of all buildings. All such on-site, internal pedestrian walkways shall be distinguished from driveways or other road surfaces by use of a different type or color of surface materials except striping over the asphalt.

(o) *Common open space areas.* Plazas, plazoletas and/or squares are encouraged to be incorporated in the master plan.

(p) *Miscellaneous definitions.*

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

*Brownfield development* means a site that has been used as a landfill, vacated and available for development or urbanization.

*Center* means the intersection of two access roads and shall be identified with a landmark, art work is preferred.

*Commercial building* means a building used for commercial uses, including hotels, but excluding warehouse, industrial, civic and residential uses.

*Focus* means a focal point defined by a building or architectural feature that has the purpose of providing a termination vista at the end or deflection of an entrance road.

*Frontage* means the privately held layer between the façade of a building and the lot line. The combination of the private frontage, the public streetscape and the type of thoroughfare defines the character of the public realm.

*Green* means a confined landscaped public space circumscribed by building facades comprising of a grassy area and trees that require limited maintenance and care.

*Greenway* means a bicycle trail or pedestrian walkway that may follow the course of a river or canal or create pathway from residential development to an urban park.

*Pedestrian path* means a pedestrian pathway between buildings and that also may connect rear parking areas with street frontages.

*Park* means a large open area available for recreation usually located at a district edge fronted by buildings and with pedestrian connection with adjacent residential neighborhoods.

*Square* means a four-sided public space, seldom larger than a block, at the intersection of important streets consisting of paved walks, lawns, trees and civic buildings.

*Yard* means a private area that abuts or surrounds a building.

**Section 2: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3: Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 4: Inclusion in Code.**

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

**Section 5: Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 6: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is

withheld or if the City Council overrides the Mayor's veto.

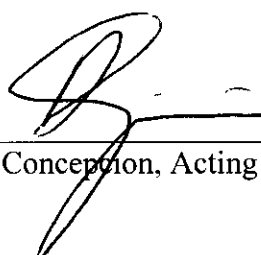
PASSED AND ADOPTED this 26th day of July, 2011.

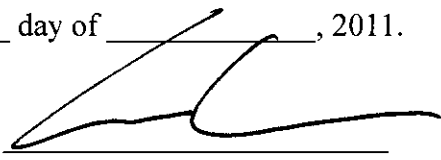
THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 180.01  
PRIOR TO FINAL READING.

  
\_\_\_\_\_  
Isis Garcia-Martinez  
Council President

Attest:

Approved on this \_\_\_\_ day of \_\_\_\_\_, 2011.

  
\_\_\_\_\_  
David Concepcion, Acting City Clerk

  
\_\_\_\_\_  
Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
William M. Grodnick, City Attorney

\*\*Since this language is entirely a new section , all the language shall be considered additional language without the necessity to underline each word.

S:\WMG\LEGISLATION\Ordinance 2011\ch98amndbusinessdevelopmentdistricthialeahheights.docx

Ordinance was adopted by a 6-0 vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Hernandez and Yedra voting "Yes", Councilmember Gonzalez absent.